

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

REBECA SANTIAGO,
Plaintiff,

vs.

MEYER TOOL, INC.,
Defendant.

Case No. 1:19-cv-32
Dlott, J.
Litkovitz, M.J.

ORDER

This matter is before Court on plaintiff's request to take the deposition of Doug Lang, the President of Meyer Tool, Inc., and defendant Meyer Tool's request to limit the scope of Mr. Lang's deposition. The Court previously ordered plaintiff to state her basis for wanting to depose Mr. Lang, including why she believes his testimony is relevant the claims in this case. (Doc. 57). The Court also ordered defendant to respond to plaintiff's submission by December 18, 2019.¹ (Doc. 57).

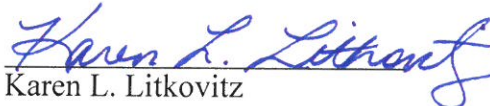
The scope of discovery extends to nonprivileged information that is relevant to any party's claim or defense, regardless of whether the information sought is admissible, that is "proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). Plaintiff alleges, inter alia, claims of gender and disability discrimination, gender pay discrimination, and violation of the Family and Medical Leave Act, 29 U.S.C. § 2601. The Court has reviewed the parties' submissions and finds that the testimony of Mr. Lang is relevant to plaintiff's claims. Previous deposition testimony in this matter indicates that Mr. Lang was the final decision-maker on plaintiff's termination. He was required to approve or disapprove the action recommended by plaintiff's supervisor, and plaintiff may inquire as to Mr. Lang's reasons for approving the termination. In addition, there is testimony that Mr. Lang was responsible for approving Meyer

¹ The parties' email submissions are attached hereto.

Tool's Performance and Training Policy in place at the time plaintiff was terminated from her employment with Meyer Tool and for approving any proposed pay raises of Meyer Tool employees. Plaintiff has identified several areas in which Mr. Lang may have direct knowledge concerning the claims in this lawsuit, and there is no intimation that plaintiff's request for Mr. Lang's testimony is for an improper purpose or harassment. In addition, it does not appear that the deposition of Mr. Lang would impose an undue burden on defendant. Plaintiff has shown that Mr. Lang's testimony is relevant to the claims in this case, and the discovery sought by plaintiff appears to be proportional to the needs of the case. The Court declines to set limits on the scope of Mr. Lang's deposition given plaintiff's showing of relevancy to the gender and disability harassment claims pled in this case.

IT IS SO ORDERED.

Date: 12/20/2019


Karen L. Litkovitz
United States Magistrate Judge

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SENT VIA E-MAIL TO: litkovitz_chambers@ohsd.uscourts.gov; JGreiner@Graydon.law;
NZiepfel@Graydon.law

December 13, 2019

Magistrate Judge Karen L. Litkovitz.
Potter Stewart U.S. Courthouse, Room 716
100 East Fifth Street
Cincinnati, OH 45202

Re: Santiago v. Meyer Tool Incorporated, Case No. 1:19-cv-00032-SJD-KLL

Dear Magistrate Litkovitz:

Pursuant to your Order of December 11, 2019, Plaintiff respectfully submits this statement of explanation for the need for Plaintiff to take the deposition of the President of Defendant, Meyer Tool Incorporated ("Meyer Tool"), Doug Lang. The deposition testimony of Meyer witnesses to date consistently establishes that Doug Lang was directly involved in the setting of employee raises and employee discipline and terminations, including the termination of Plaintiff.

On November 15, 2019, Plaintiff began, but was unable to finish, the deposition of Deanna Adams, HR Director for Meyer Tool. Ms. Adams reports directly to Mr. Lang. Ms. Adams testified that Mr. Lang discusses all employee terminations with her or she discusses them with him. She discussed the termination of Plaintiff with Mr. Lang. Beau Easton, Vice President of Meyer, does not have any involvement with employee terminations unless he is a committee member and /or approves the committee recommendation as one of the three members of an investigative committee relative to an employee complaint of harassment.

On November 13, 2019, Plaintiff took the deposition of Meyer Tools' former V.P. of Operations, Gordon ("Gordy") McGuire, who retired on December 31, 2018. Mr. McGuire, consistent with the testimony of Ms. Adams, testified that Mr. Lang had the final say as to all employee disciplinary / corrective actions. Mr. McGuire sat on two, three person investigative committees that interviewed witnesses and made recommendations to the President (Mr. Lang) regarding specific employee complaints of sexual harassment. Mr. Lang decided who would be appointed to serve on an investigative committee. Mr. McGuire further testified that Mr. Lang approved Meyer Tool's Performance and Training Policy, which was in place at the time of Plaintiff's termination on the purported basis of poor work performance and attendance.

Magistrate Judge Karen L. Litkovitz.
December 13, 2019
Page 2

Mr. McGuire testified that Mr. Lang approves the annual cost of living adjustment ("COLA") percentage increase in employee compensation and approves all employee pay raises. Each supervisor would annually be given a stack of folders, one folder for each employee reporting to him, which would include the COLA rate for that year. Mr. McGuire testified that the supervisor would then have discretion to give a higher raise based on merit. Mr. McGuire would sign off and pass the folders to Payroll and Accounting, which would then obtain ultimate approval for the pay raises from Mr. Lang.

The ability to take an unlimited discovery deposition of Mr. Lang is critical to Plaintiff's case, as her claims against Meyer Tool include gender based pay discrimination, as well as gender and disability harassment, including hostile work environment discrimination. See counts set forth in *First Amended Complaint*.

Attached hereto for your reference is a pay approval form for employee Huck Finn (Bates No. MEO1244) (Exhibit A). Also attached is an email from Christine Steele in HR to Mr. Lang on October 9, 2015, referencing an investigative committee's recommendations to Mr. Lang regarding an employee sexual harassment claim (Bates No. MEO1918) (Exhibit B), and an investigative committee's recommendations to Mr. Lang regarding another employee complaint of sexual harassment by supervisor Huck Finn (Bates No. MEO1465) (Exhibit C). From the case of *William Cannon-El v. Meyer Tool Incorporated*, S.D. Ohio Case No. 1:16cv956, also in this Court, Plaintiff attaches portions of the transcript of Nicole Fugate, confirming Mr. Lang's involvement with and ultimate approval of committee recommendations for employee discipline arising from harassment complaints (Exhibit D). Deposition Exhibits 60 and 62 from Ms. Fugate's deposition are also attached (Exhibits E and F). Relevant portions of the Transcript of the February 17, 2017 deposition of Paul Rowland, Plant Manager, in the *Cannon-El* case are attached (Exhibit G), as well as a page from the January 20, 2017, deposition of Ms. Adams in the *Cannon-El* case, confirming that Ms. Adams reports directly to Mr. Lang (Exhibit H).

Very Truly Yours,

GRUBB & ASSOCIATES, LPA

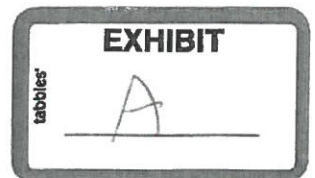
/s/ Mark E. Owens
Mark E. Owens, Esq.

cc: John C. Greiner, Esq.
Nicholas J. Ziepfel, Esq.

File Copy
Client Copy

New Hire	Information	Status	#000047	8/12/1985
Name:	Huck Finn	✓	10	
Requisition #	200101215	✓	10	
Approval of Requisition	ATE/DL	✓	10	
Job Description	Asst Supervisor	✓	10	
Supervisor:	Gordy McGuire	✓	10	
Department:	200	✓	10	
Shift:	Nights	✓	10	
Location:	HQ	✓	10	
Background:	x	x		
Physical/Drug Screening :	x	x		
HS/Equivalent	x	x		
Pending start date:	4/11/2016	✓	10	
Starting rate of pay	\$36.55	✓	10	
Approval Date	4/8/2016	✓	10	
Senior Management	Doug Lang	✓	10	
Management Comments:				
Offer letter	dma	✓	10	
Date Sent	4/11/2016	✓	10	
Letter of acceptance:	hf	✓	10	
Date Sent	4/11/2016	✓	10	

-- New Rate



CONFIDENTIAL

ME01244

Christine Steele

From: Kristy Swart Smith
Sent: Friday, October 09, 2015 2:03 PM
To: Christine Steele; Doug Lang; Gordy McGuire; Beau Easton
Subject: RE: Committee Recommendations - Sims vs Frasier
Attachments: Simms v Fraiser, 10-6-15.docx

Exhibit A may be difficult to see. Please see attached for the original copy minus signatures.

Thanks,
Kristy

Kristy Swart Smith CPM, MSIO
Project Facilitator and Analyst
Meyer Tool, Inc.

Cell Number: 513-258-6106

Desk Number: 513-591-5236

Email: kristy.swartsmith@meyertool.com

Address: 3055 Colerain Ave., 2nd Floor South, Cincinnati, OH 45225

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-----Original Message-----

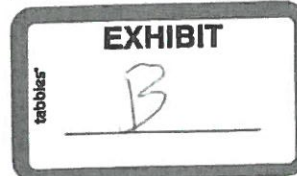
From: Christine Steele
Sent: Friday, October 09, 2015 1:57 PM
To: Doug Lang <doug.lang@meyertool.com>; Gordy McGuire <gordy.mcguire@meyertool.com>; Beau Easton <beau.easton@meyertool.com>
Cc: Kristy Swart Smith <kristy.swart@meyertool.com>
Subject: FW: Committee Recommendations - Sims vs Fraiser

Please the conclusion of the Harassment claim of Sims and Frasier. We have included our recommendations.

Thank you,

Christine

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The investigation committee's recommendations for corrective actions are contained herein to the President, Mr. Doug Lang, regarding the complaint of harassment by Huck Finn (EMP #47) in regard to Teresa Hopkin's (EMP #2146) email correspondence. These recommendations are a direct result of the investigation conducted by Paul Rowland (EMP #154), Nicole (Nikki) Fugate (EMP #2526), and Sarah Sweltzer (EMP #2910) between the dates of October 20, 2016 and October 25, 2016. All three committee members were unrelated to the incident.

Recommendations for corrective actions:

- The committee recommends that Teresa Hopkins complete individualized training from Be Employee Assistance Program (BEAP). This training is recommended to assist Teresa in understanding that there are different forms of bullying and inappropriate behavior, including text-based such as email. Teresa is expected to complete the training prior to December 15, 2016.
- The committee recommends issuing a verbal warning to Teresa Hopkins based on misuse of company property per Meyer Tool's Employee Handbook section 9:1 Use of Meyer Tool Property. This training is to occur prior to November 15, 2016.
- The committee recommends that Teresa Hopkins return to work October 25, 2016 and be paid for her time off.

Key notes pertaining to recommendations:

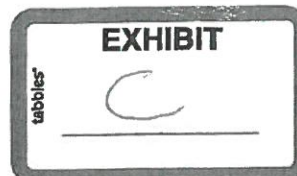
- The question was asked: How would you like to see this resolved? Both Huck and Teresa stated that they would have no issue working together following this investigation.
- The committee finds that Teresa did not engage in discrimination or harassment. The committee finds that Teresa did engage in bullying behavior through the misuse of Meyer Tool property. The committee finds that Teresa's behavior was not intentional bullying and was not malicious in nature. As such, the committee recommends a low level of disciplinary action.

Our recommendations are based off of interviews conducted with the following employees:

- Interviews conducted with:
 - Teresa Hopkins (EMP #2146) – Interview on 10/20/16 and 10/21/16
 - Deanna Adams (EMP #2800) – Interview on 10/21/16
 - Huck Finn (EMP #47) – Interview on 10/21/16

The following provides the timeline of events for the Harassment Committee Investigation regarding email correspondence between Teresa Hopkins and Huck Finn:

- October 20, 2016:
 - 1:00pm – Committee formed. Committee members:
 - Paul Rowland
 - Sarah Sweltzer
 - Nikki Fugate



In The Matter Of:
William H. Cannon-El v.
Meyer Tool Incorporated

Nicole Fugate
January 20, 2017

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513.290.3233



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EXHIBIT

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D

Nicole Fugate

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1 that or anyone else to call 911, correct?

2 A. No.

3 Q. Now, in the past, it was your
4 understanding that Ms. Steel handled all the
5 complaints from the employees?

6 A. Yes.

7 Q. And is it your understanding then that
8 she kept those in her file in her office?

9 A. I'm not sure how she handled them.

10 (Deposition Exhibit No. 49 was marked.)

11 Q. Now, as far as -- when you first -- you
12 were advised by Gordy McGuier that you would be
13 sitting on the committee?

14 A. No. I was informed by Deanna.

15 Q. So she initially told you?

16 A. She told me, and she told me that Doug
17 Lang had chosen me for that committee.

18 Q. Okay. Was there any discussion between
19 you and Deanna about pulling Rick's file to see if
20 there's been any complaints made against him?

21 A. Yes, based on Will Cannon's statement
22 and John Poff's statement that they had previously
23 complained about him.

24 Q. Okay. And was that done?

Nicole Fugate

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1 Q. Did another person stop by? Did someone
2 send you an email, a text, anything of that
3 nature?

4 A. No. We kept that between the three of
5 us.

6 Q. Okay.

7 A. And I would say just in regard to saying
8 that these -- that this is the (indicating) end
9 all, be all, that it couldn't be altered after
10 that, it hadn't been sent along to the president
11 for approval. Just with Becky and I sending it
12 back and forth and reviewing it with Paul, that
13 was the point that we determined...

14 Q. So the president, I understand,
15 Mr. Lang, could have looked at it all and
16 basically said, yes, no, part of it I agree with,
17 part of it I don't, whatever?

18 A. Yes.

19 Q. Now, so at that point, basically,
20 though, you had collected information, there was
21 no new information, and that was the end of it?

22 A. Correct.

23 Q. Okay. And is there any reason that you
24 basically waited to advise Mr. Cannon for five

Nicole Fugate

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1 789.

2 (Deposition Exhibit No. 60 was marked.)

3 A. Yes, this appears to be the final draft.

4 Q. (By Ms. Grubb) And then there was some
5 emails going back and forth about back pay, that
6 Mr. Cannon should receive back pay for the
7 duration of the suspension. Beau and Julie were
8 both consulted on this decision and concur.

9 This went up the chain, then, regarding
10 his back pay?

11 A. Yes.

12 Q. And you don't know whether or not he
13 ever received back pay?

14 A. I don't. I know that it was approved
15 that he would receive back pay, but I wasn't
16 informed as to whether -- when he received it.

17 Q. And you just dropped it. You never saw
18 whether or not he received back pay or whether any
19 of the other recommendations were put in place?

20 A. For the back pay, I think that that
21 would have been outside of my realm. I don't
22 think that I would have been able to ask
23 accounting that type of information.

24 As far as the other recommendations, it

Nicole Fugate

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1 is the job of the committee to make sure that
2 these are issued to the president, but it's not
3 our job to enforce them in this case, the only
4 exception being that I took on that I would train
5 them on the complaint procedure.

6 Q. Okay.

7 A. So I knew that was an action item that
8 was mine and had to be completed by a certain
9 date.

10 Q. Do you remember getting an email from
11 Doug Lang saying, Okay. Has this been sent to
12 Arlyn yet? I would like to talk to him first, and
13 then the chain just dies.

14 Do you recall anything regarding that?

15 A. I do remember him saying that, yes.

16 Q. And do you remember any follow-up or
17 anything to that?

18 A. No.

19 Q. Now, on June 7th, 11:50 a.m., there's
20 one from you: I finished my additions to the
21 notes you started.

22 So we're back on interview with Mark
23 Metcalf, interview with Rick Ackerson, interview
24 with Steve Korb, Tina, Deanna, Glen Young, Gordy

From: Nikki Fugate <nikki.fugate@meyertool.com>
Sent: Tuesday, June 07, 2016 8:36 AM
To: Doug Lang; Beau Easton (beau.easton@meyertool.com)
Cc: Becky Schwarz; Paul Rowland
Subject: Harassment Committee Recommendations
Attachments: Recommendations for events on 5-25-16 and 5-26-16.docx

Good morning,

Attached please find our recommendations pertaining to the harassment committee's investigation of the incidents which occurred Wednesday, May 25 in the NPI area and Thursday, May 26 in the HR department.

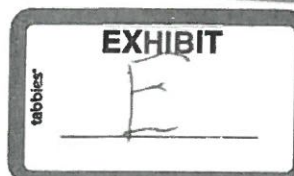
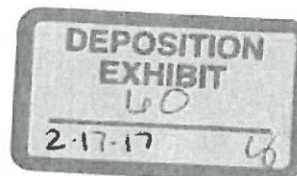
Thank you,

Nikki Fugate
Training Instructor
Department of Continual Improvement
Meyer Tool Inc.
Cell: 513-615-5318
Desk: 513-591-5243

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MT000785

From: Nikki Fugate <nikki.fugate@meyertool.com>
Sent: Tuesday, June 07, 2016 3:32 PM
To: Doug Lang; Beau Easton (beau.easton@meyertool.com)
Cc: Becky Schwarz; Paul Rowland
Subject: Interview notes and written statements
Attachments: Written Statements Harassment Committee 5-25-16 & 5-26-16.pdf; Interview with Mark Metcalf on June 2, 2016.doc.docx; Interview with Rick Ackerson on June 2, 2016.docx; Interview with Shireen Flick on June 3, 2016.doc; Interview with Steve Korb on June 3, 2016.doc.docx; Interview with Tina Loveless on June 2, 2016.doc.docx; Interview with Will Cannon on June 1, 2016.doc; Interview with Chris Bauer on June 1, 2016.doc; Interview with Deanna Adams on May 31, 2016 and June 2, 2016.doc; Interview with Glenn Young on June 2, 2016.doc.docx; Interview with Gordy McGuire on June 2, 2016.doc.docx; Interview with John Poff on June 1, 2016.doc; Interview with Maria Jackson on June 2, 2016.doc; Wednesday 6-1-2016 Phone Call with William Cannon.doc

Good afternoon,

Attached are the written statements from those who observed the events on Wednesday and/or Thursday as well as the committee's interview notes.

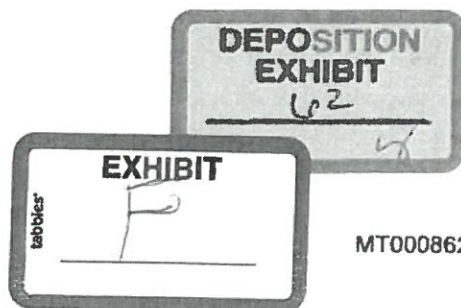
Thank you,

Nikki Fugate
Training Instructor
Department of Continual Improvement
Meyer Tool Inc.
Cell: 513-615-5318
Desk: 513-591-5243

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In The Matter Of:
William H. Cannon-El v.
Meyer Tool Incorporated

Paul Rowland
February 17, 2017

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EXHIBIT

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Page 13

1 then Beau Easton.
2 Q. Now, as -- let me ask -- as plant
3 manager, what were your responsibilities?
4 A. Making sure that parts were manufactured
5 properly on time, also managing. Started out with
6 three people. When I passed it over three or four
7 years ago and I quit being a plant manager, there
8 were 140 there.
9 Q. Now, were you also as plant manager in
10 charge of the Affirmative Action Program?
11 A. No, everything but. Human resources
12 took care of...
13 Q. And how many employees directly reported
14 to you as plant manager?
15 A. All 140.
16 Q. Okay. Let's do this. Who were your
17 direct reports; in other words --
18 A. Rephrase.
19 Q. Obviously you wouldn't have 140 people
20 knocking at your door. So who reported directly
21 to you, what supervisors or managers?
22 A. All of the different areas. Over 25
23 years, there's been various ones.
24 Q. In 2013, who was reporting directly to

Page 14

1 you?
2 A. It would be Rick Stevens, Kerry June,
3 Craig Moore, Ron Hendershot. Those were all the
4 different area leaders.
5 Q. Now, in 2013, you said you then moved to
6 manufacturing director. How does that vary from
7 plant manager?
8 A. Now I assist in manufacturing processes
9 and training and working continually improving the
10 process or manufacturing techniques.
11 Q. Now, who reports to you as manufacturing
12 director?
13 A. Nobody.
14 Q. Okay. So if... you assist in training.
15 There appears to be individuals that their key
16 responsibility is training. Who would those
17 people be?
18 A. That would be Nikki.
19 Q. Nikki Fugate?
20 A. I'll elaborate on training. As I am
21 passing on my knowledge to each and every
22 department that needs my help, I am more of a
23 resource now doing training and improvement to any
24 place in the company based on my past experiences.

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1 Q. All right. So Nikki Fugate, even though
2 she does training, she doesn't report directly to
3 you?
4 A. No.
5 Q. Who does she report to?
6 A. I'm not sure who she reports to exactly.
7 Okay?
8 Q. How about Becky Schwarz?
9 A. Beau Easton.
10 Q. And as far as yourself, you also report
11 to Beau Easton?
12 A. Correct.
13 Q. And now, how long have you been sitting
14 on the investigative committee?
15 A. Well, it isn't just one committee.
16 Q. Who selects the committee members?
17 A. Management.
18 Q. When you say management, who is
19 management?
20 A. Doug Lang. He's the -- he's the
21 president of the company now. So, I mean, I get
22 my direction -- I got my direction from him asking
23 me to be on this committee.
24 Q. So depending perhaps on the situation or

Page 16

1 scenario, you may sit on one committee or you may
2 not be asked?
3 A. A committee is formed after an incident.
4 Q. And the selection of those three
5 committee members would be controlled by Doug
6 Lang, to the best of your knowledge?
7 A. Yes.
8 Q. Now, when did he first contact you about
9 the committee regarding Mr. Cannon?
10 A. I'm not sure the date, but approximately
11 a week before we started having interviews, I
12 believe. Within a week.
13 Q. Now, did he contact you by phone, email,
14 text?
15 A. He phoned me and asked me.
16 Q. And did he tell you anything at that
17 time?
18 A. Nope.
19 Q. So he just told you that you'd be
20 sitting on the committee?
21 A. Yes.
22 Q. At that time, did he tell you who else
23 would be sitting on the committee?
24 A. I don't think so.

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1 and find out what is the real truth.
2 Q. Now, as far as -- did you know that --
3 you knew about the two individuals. Were the --
4 you said there were two other individuals. Were
5 they noted somewhere in the record that they may
6 have information relevant to the facts?
7 A. I believe during the interviews, their
8 names came up, so we wanted to talk to them. And
9 I believe we did get statements from them also.
10 Q. And do you -- before you speak to them,
11 do you ask them or do their supervisors ask them
12 to write statements?
13 A. No. The human resources takes care of
14 having all the employees write the statements, or
15 they submit their statements to human resources.
16 Q. And so you wouldn't see how the
17 statements are written or under what conditions or
18 when; they're just provided to you?
19 A. No, I was never present or knew the
20 conditions unless it came up during the
21 interviews.
22 Q. Okay. Now, did you interview anyone
23 more than once?
24 A. On which committee?

Page 26

1 Q. On this one that we're talking about,
2 Theresa and Huck Finn.
3 A. Yes. Theresa.
4 Q. Theresa you interviewed twice?
5 A. I believe twice.
6 Q. And did you permit anyone to accompany
7 her in her interview?
8 A. No. We -- that's not standard.
9 Q. Okay. Now, did you inform her that
10 there's a possibility that discipline may result?
11 A. Yes.
12 Q. When did you inform her?
13 A. During the first initial meeting, we are
14 going through, like I said before, the discovery
15 process. And based on what is discovered, some
16 action will be taken or no action will be taken
17 based on the information that comes out.
18 Q. Now, as far as Nikki's role in this
19 investigation, does she -- is she the one that
20 informs the individuals that the -- there may be
21 some action taken?
22 A. Any time there is an incident, as we go
23 through collecting the information, then the
24 decision is made as to whether there will be

Page 27

1 action taken or no action taken.
2 Q. Okay. To your knowledge, was she,
3 Theresa, on suspension --
4 A. I'd like to answer one --
5 Q. I'm sorry.
6 A. Based on our recommendation, okay, to
7 upper management, but they make the final
8 decision.
9 Q. Do you know whether Theresa had been
10 suspended when they initially discovered this
11 problem until the time that she appeared before
12 the committee?
13 A. Yes, she was.
14 Q. And do you know how long?
15 A. No.
16 Q. Do you know who suspended her?
17 A. No.
18 Q. Do you know whether or not in this
19 recommendation she was reinstated?
20 A. Yes. She was reinstated back to work.
21 Q. And was she paid for the suspension
22 time, to your knowledge?
23 A. I believe she was.
24 Q. Okay. Was it your committee's

Page 28

1 recommendation to do so?
2 A. It was our recommendation to reinstate
3 her back to work, and I believe -- I believe we
4 did recommend her also.
5 Q. For pay?
6 A. For pay, I believe.
7 Q. Okay. Your recommendations in Theresa's
8 case would then have to be all approved by upper
9 management?
10 A. Yes.
11 Q. Who specifically in upper management?
12 A. I would say Beau Easton, Gordy McGuier,
13 and Doug Lang. I'm going to say VPs. That's my
14 belief.
15 Q. Now, as far as the comments or the
16 emails that Theresa was sending, were they sexual
17 in nature?
18 A. No.
19 Q. So basically, without a lot of detail,
20 what were they regarding?
21 A. A lot of religious content.
22 Q. Okay. As far as religious content, what
23 do you mean?
24 A. Pictures, posters, statements. I

In The Matter Of:
William H. Cannon-El v.
Meyer Tool Incorporated

Deanna Adams
January 20, 2017

Around-the-Clock Reporting Services
PO Box 11008
Cincinnati, OH 45211

Min-U-Script® with Word Index

EXHIBIT

H

tabbles®

Deanna Adams

23

1 A. He was the president of the company. He
2 is now the chairman of the board.

3 Q. When did he become the chairman of the
4 board?

5 A. Last year, maybe beginning of December.

6 Q. December 2016?

7 A. Yes.

8 Q. Currently, who do you report to?

9 A. Doug Lang.

10 Q. And his title is president?

11 A. Yes.

12 Q. What was his prior position?

13 A. Executive vice president.

14 Q. Now, to your knowledge, have you
15 discussed anything with Mr. Easton regarding
16 Mr. Cannon-El?

17 A. No.

18 Q. Have you discussed anything regarding
19 Mr. Cannon-El with Mr. Lang?

20 A. Just that the -- the cases.

21 Q. What do you mean the cases?

22 A. The EEOC, the labor board. And those
23 were the only two ones that I -- I let him be
24 aware that that was going on.



GRAYDON

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December 18, 2019

VIA ELECTRONIC MAIL

Magistrate Judge Karen L. Litkovitz
Litkovitz_chambers@ohsd.uscourts.gov

Re: Rebeca Santiago v. Meyer Tool Inc., Case No. 1:19-CV-00032

Dear Magistrate Litkovitz:

Meyer Tool, Inc. ("Meyer Tool") respectfully requests that this Court limit Plaintiff's scope of her deposition of Meyer Tool President, Doug Lang, to address Mr. Lang's direct involvement in Meyer Tool's decision to terminate Plaintiff's employment on July 21, 2017. For the reasons stated below, Plaintiff's demands to depose Mr. Lang on topics beyond his direct involvement in Meyer Tool's decision to terminate Plaintiff's employment is nothing more than a fishing expedition that this Court should not permit.

Plaintiff implies that Mr. Lang was intimately involved with Meyer Tool's decision to terminate Plaintiff's employment. This is not accurate. Meyer Tool's Human Resources Director, Deanna Adams, testified about Meyer Tool's procedures for employment terminations.¹ Generally, a Meyer Tool human resources representative contacts Meyer Tool's President, Doug Lang, among others, to notify them that Meyer Tool intends to terminate an employee. The human resources representative will briefly update Mr. Lang, often verbally, with Meyer Tool's reason(s) for the employment termination. Mr. Lang has the opportunity to agree or disagree with human resources' decision. Besides this brief, secondhand communication, Mr. Lang has no firsthand knowledge or involvement with Meyer Tool's decision to terminate an employee.² Ms. Adams testified that she followed this process when terminating Plaintiff.³

Meyer Tool's retired Vice President of Operations, Gordon McGuire, testified to a similar process Meyer Tool follows for annual cost of living raises. Generally, Meyer Tool supervisors would receive a target cost of living increase, with all requested increases ultimately approved by the finance department and Mr. Lang. Similar to the termination procedure outlined above, Mr. McGuire *did not* testify that Mr. Lang was intimately involved in approving each employee's cost of living increase – rather, Mr. McGuire testified that decision was left strictly to front line supervisors.⁴

Meyer Tool's procedures outlined above are far from unique. Most organizations maintain

¹ See November 15, 2019 Deposition testimony of Deanna Adams ("Adams Deposition"), pp. 74-78. Relevant excerpts of the Adams Deposition are attached at Tab 1.

² *Id.*

³ *Id.*

⁴ See November 13, 2019 Deposition testimony of Gordon McGuire ("McGuire Deposition"), pp. 11-12, 14-17. Relevant excerpts of the McGuire Deposition are attached at Tab 2.

an internal hierarchy that assigns final oversight of substantive employment decisions to its officers. This does not mean that these officers are directly involved in the day-to-day human resources functions, nor would these officers possess firsthand knowledge of the reasons for an employment termination.

Plaintiff stresses that Mr. Lang is intimately involved in Meyer Tool procedures for investigating harassment complaints and issuing corrective action related to them. But Mr. McGuire and Ms. Adams both testified that such investigations – identified in Meyer Tool Policy MT-21 – occur *only* after a complaint of harassment.⁵ And Plaintiff unequivocally testified that she never complained about harassment to Meyer Tool – not during her employment, not when Meyer Tool terminated her employment, nor even when she sent a letter to Meyer Tool's Human Resources department six weeks after Meyer Tool terminated her employment.⁶

Quite simply, Meyer Tool followed the appropriate procedure for terminating Plaintiff's employment. Mr. Lang's involvement in that procedure is limited to a brief telephone call with Ms. Adams to review, provide ultimate approval for the decision.

Mr. Lang's deposition, in a broad sense, falls outside Federal Rule 26's permitted scope of discovery as it is not proportional to the needs of this case. Plaintiff's reference to depositions from the *Canon-El* case – an unrelated case that involved an investigation under Meyer Tool's Policy MT-21 – demonstrates how unnecessary Mr. Lang's testimony is to this case. Meyer Tool has and continues to make available for deposition the true decision makers relevant to this case; those with firsthand knowledge of Meyer Tool's termination of Plaintiff's employment.

Given Plaintiff's inability to justify the need to depose Mr. Lang beyond his direct involvement in Meyer Tool's decision to terminate Plaintiff's employment, it is reasonable to assume that Plaintiff's request to depose Mr. Lang is nothing more than a fishing expedition. The Court should not entertain Plaintiff's discovery request that is categorically beyond the proportional needs of this case – particularly when the Court has already extended Plaintiff's discovery cutoff twice.

For these reasons, Meyer Tool respectfully requests that this Court limit Plaintiff's scope of her deposition of Meyer Tool President, Doug Lang, to address Mr. Lang's direct involvement in Meyer Tool's decision to terminate Plaintiff's employment on July 21, 2017.

Sincerely,

GRAYDON HEAD & RITCHEY LLP


John C. Greiner

⁵ Adams Deposition, pp. 59, 61-63; McGuire Deposition, p. 171.

⁶ See November 112, 2019 Deposition testimony of Rebeca Santiago ("Plaintiff Deposition"), pp. 24, 85-86, Ex. 2. Relevant excerpts of the Plaintiff Deposition are attached at Tab 3.

Tab 1

In The Matter Of:
Rebeca Santiago v.
Meyer Tool, Inc.

DEANNA ADAMS
November 15, 2019

Around-The-Clock Reporting Services
Jean Long, RPR
P.O. Box 11008
Cincinnati, Ohio 45211
513.481.5200

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1 if it's a list of all complaints, incident
2 reports filed by who they were and then who
3 the complaint was against?
4 MR. ZIEPFEL: Objection.
5 THE WITNESS: You are going to
6 have to ask that question again because it
7 was just too --
8 BY MS. GRUBB:
9 Q. Sure. Can you tell me why your
10 complaints listed as against Mr. Cannon-El is
11 not on this list?
12 A. I just answered that.
13 Q. Because you believe it's legal and
14 anything that goes to a court of law, all
15 paperwork goes to that and it's not kept on
16 this list?
17 A. I didn't say that. I said that it
18 is not complete, that's why it's not there.
19 Q. Okay. How many outstanding cases
20 do you have that are not on this list then?
21 A. Three.
22 Q. And who are the three?
23 A. Cannon-El, Santiago, and I'm not
24 sure who the other one is, sorry.
25 Q. Is it a matter that has gone to

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1 court?
2 A. The one I can't remember.
3 Q. The third one, right?
4 A. No, it has not.
5 Q. When you say it's not completed, is
6 it sitting in the EEOC?
7 A. No.
8 Q. Is it a Workers' Compensation case?
9 A. No.
10 Q. But you don't recall, is it filed
11 in public records anywhere?
12 A. No, it's in my office in my drawer
13 for me to complete it out, that I had to
14 compile stuff for this, so it had to be to
15 set aside.
16 Q. And what type of complaint or issue
17 was it?
18 A. I didn't really get to read it, so
19 I'm not going to speculate. I don't know.
20 Q. Okay. So it just started, in other
21 words, someone brought in a complaint and you
22 are now convening a committee?
23 A. No, it's not going to committee,
24 it's not that sort of complaint for a
25 committee.

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1 Q. Has an internal investigation been
2 done on this complaint?
3 A. I have not started anything on this
4 complaint.
5 Q. And just so we are clear for the
6 record when I say internal investigation, I
7 don't want to misrepresent what that is.
8 What do you do, what does HR do in an
9 internal investigation?
10 MR. ZIEPFEL: Objection.
11 THE WITNESS: What do we do?
12 BY MS. GRUBB:
13 Q. Right.
14 A. I look into the facts. I interview
15 people. I get statements. And then I
16 consult the handbook and go by what the
17 policies and procedures say.
18 Q. And how do you determine whether
19 you are going to convene a committee and
20 whether you do an internal investigation?
21 A. Harassment is what we make a
22 committee for.
23 Q. Only harassment?
24 A. Yes.
25 Q. Any specific types of harassment?

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1 A. Where it's against sexual or
2 inappropriate comments or that it's ongoing
3 after the person says stop and they
4 continuously do it.
5 Q. And does that have to be a written
6 request?
7 A. No.
8 Q. So orally someone would come in and
9 you will conduct a, you will convene a
10 committee if someone complains orally?
11 A. I will write it down and then say
12 you will need to, I need to form an
13 investigation team.
14 Q. And for an internal investigation,
15 it's all other complaints, issues or matters?
16 A. What do you mean by internal
17 because they are both internal with Meyer
18 Tool?
19 Q. Well, the other was I should say
20 you have an internal committee and/or for
21 grievances, and then you have an internal
22 investigation, those are two separate
23 processes, correct?
24 A. But they are both internal, they
25 are both Meyer Tool processes.

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1 Q. That's fine, but the investigation
2 does not involve paneling a committee?
3 A. What?
4 Q. In other words, okay, let me try to
5 make this clear. It is my understanding you
6 have a committee, an internal investigative
7 committee team is established for harassment
8 and then I don't want to have to spend the
9 time listing all those, but what you just
10 testified to, okay, that's one type of
11 investigation.
12 For all other grievances, issues
13 that are non-harassment, you would do an
14 internal investigation, correct, that does
15 not involve a committee?
16 A. I would look into the complaint.
17 Q. Okay. When you say I would look
18 into, you yourself?
19 A. Me myself.
20 Q. Okay. And with the committee
21 there's three people, their findings are
22 written up, and then it's approved by upper
23 management, Doug Lang, am I correct?
24 MR. ZIEPFEL: Objection.
25 THE WITNESS: The president.

1 something to yourself at least because you
2 are the one conducting this internal
3 investigation?
4 MR. ZIEPFEL: Objection.
5 THE WITNESS: I would write
6 something that, no findings, and I would talk
7 to the person that put in the complaint.
8 BY MS. GRUBB:
9 Q. Okay. And these are not, these
10 internal investigation files or data that's
11 collected is not reviewed by Mr. Lang?
12 A. No.
13 Q. Okay. Are these brought to his
14 attention anyway?
15 A. Depends on what it is.
16 Q. Okay. Let's say it's an
17 allegation, someone hit someone, but you
18 couldn't substantiate it, would it still be
19 brought to his attention by yourself?
20 A. It depends on the situation.
21 Q. Okay.
22 A. Did they go up to him and brush
23 against them or did they punch him in the
24 face. You see there's a big difference
25 there.

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1 BY MS. GRUBB:
2 Q. Right, he's the one that makes the
3 final determination and then issues, agrees
4 or disagrees with the recommendations, makes
5 the final finding?
6 MR. ZIEPFEL: Objection.
7 THE WITNESS: He agrees or
8 disagrees with the findings of the
9 investigation.
10 BY MS. GRUBB:
11 Q. Okay. With an internal
12 investigation, however, there's obviously no
13 committee. How is that internal
14 investigation documented as to how it's been
15 conducted?
16 A. It's in its file folder and it will
17 have statements, witnesses, their things,
18 other statements, the complainant, the person
19 it was against. I usually, it depends on
20 what it is. I can't really say. It could be
21 a writeup, it could be mandatory earn, which
22 is an employee assist program, or there could
23 be no findings.
24 Q. And you would write to that effect,
25 you would write something in a memo or

1 Q. Okay. Sure. Is there, as far as
2 these internal investigations, if someone is
3 terminated, would that then have you take
4 that file and your investigative notes then
5 to Mr. Lang to bring him up to speed on that?
6 A. If somebody was terminated, we
7 won't investigate.
8 Q. As far as Mr. Easton, Beau Easton,
9 what role, if any, does he play as far as the
10 internal investigations?
11 A. None that I know of.
12 Q. I'm trying to understand whether or
13 not Mr. Beau Easton is in the chain of
14 command such that individuals, given his
15 executive position, feel comfortable or can
16 speak to him regarding a problem at work?
17 A. It's an open door policy.
18 Q. But there is no requirement that
19 they advise him of any problems that they may
20 be having at work, correct?
21 A. Correct.
22 Q. Okay. Now as far as this internal
23 investigation, so if we look at AA, the last
24 time I deposed you, you said you were in the
25 middle of --

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1 they are free to come to anyone else in HR,
2 not just yourself, correct?

3 MR. ZIEPFEL: Objection.

4 THE WITNESS: Correct.

5 BY MS. GRUBB:

6 Q. Okay. So is it possible that he
7 consulted with someone else in your HR
8 department as to Ms. Santiago, let's say
9 January 1, 2017, to the present, to her
10 termination date of 7/20/2017?

11 A. I don't know.

12 Q. Okay. Would they have had it
13 documented in a communication log form?

14 MR. ZIEPFEL: Objection.

15 THE WITNESS: No.

16 BY MS. GRUBB:

17 Q. Would they have noted it in her
18 file?

19 A. No.

20 Q. Okay. So he may have come in and
21 said hey, I got this employee, I want to talk
22 with you, and then there would be no
23 documentation of that conversation?

24 MR. ZIEPFEL: Objection.

25 THE WITNESS: Possible, yes.

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1 BY MS. GRUBB:

2 Q. Okay. But you yourself personally
3 never overheard him talking about Ms.
4 Santiago with anybody in the HR department?

5 A. No, I never heard him talking about
6 anybody.

7 Q. And you weren't part of any
8 conversations with him regarding Ms. Santiago
9 for the six months prior to her termination?

10 MR. ZIEPFEL: Objection.

11 THE WITNESS: Not that I recall.

12 BY MS. GRUBB:

13 Q. Okay. All right. So at the point
14 that he came in with the form completed, am I
15 correct, the termination form completed?

16 A. Yes.

17 Q. All right. And it was a single
18 form?

19 A. I don't know.

20 Q. Okay. Did he hand it personally to
21 you?

22 A. No.

23 Q. Who did he hand it to?

24 A. I think it was slipped under my
25 door.

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1 Q. Okay. So it was slipped under your
2 door?

3 A. I'm not sure on that.

4 Q. Okay. So you believe it might have
5 been -- but you didn't have any face-to-face
6 conversation going here, I want to have you
7 take a look at this termination form?

8 MR. ZIEPFEL: Objection.

9 THE WITNESS: No. Wait a
10 minute. I think he did hand it to me and
11 said, you know, here's a form, I need you to
12 go through the process.

13 BY MS. GRUBB:

14 Q. Okay. And at that stage do you
15 then take the form and send it up the chain
16 because if it's a termination, you said it
17 has to be approved by upper management?

18 A. Correct.

19 Q. Who did you send that form to?

20 A. I didn't send the form to nobody.

21 Q. Okay.

22 A. It would have been a call. It
23 would have been a call from me to them.

24 Q. Okay. Who did you call first in
25 the case of Ms. Santiago?

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1 MR. ZIEPFEL: Objection.

2 THE WITNESS: I'm not sure who I
3 called first. I think it was Doug Lang.

4 BY MS. GRUBB:

5 Q. Okay. And what did you say to
6 Mr. Lang and what did he say to you on that
7 call?

8 A. I don't know, this is two years, it
9 was approved.

10 Q. Okay. He gave that approval?

11 A. Yes.

12 Q. Okay. Did you have to say anything
13 regarding the facts and the circumstances of
14 termination?

15 A. Yes.

16 Q. I'm trying to get the gist of that
17 conversation. And so he said yes. The day
18 that Huck gave it to you, did he approve it?

19 A. Who approve it?

20 Q. Okay. I was trying to abbreviate,
21 I shouldn't, I apologize, bad question. The
22 day that Mr. Finn gave you Mr. Santiago's
23 termination form, you said you talked by
24 telephone to Mr. Lang. Did Mr. Lang approve
25 that termination of Ms. Santiago the same day

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1 that you gave him the form?
2 A. I don't know, I don't know if that
3 phone call happened then or later. I don't
4 know the timeframe there.
5 Q. Do you think it was within a day or
6 two?
7 A. I don't know.
8 Q. So when Mr. Lang verbally gives his
9 approval on something, is there some email or
10 documentation via text --
11 A. No.
12 Q. -- that he said it's okay?
13 A. No.
14 Q. All right. So you heard that, I
15 said I approve, did he tell you why he was
16 approving it?
17 A. He would have asked me what did the
18 supervisor say, why does the supervisor want
19 to terminate, is this, you know, is this what
20 he says on here, you know, I just explain
21 what he put on there, and he said yes, yes,
22 if the supervisor is good with it, I'm good
23 with it.
24 Q. And you believe you did that same
25 discussion regarding Ms. Santiago on the

1 at that point, at that point you get off the
2 phone, what next do you do with that paper
3 and who do you advise?
4 MR. ZIEPFEL: Objection.
5 THE WITNESS: What do you mean
6 who do I advise?
7 BY MS. GRUBB:
8 Q. Well, wouldn't you have to tell the
9 supervisor that Mr. Lang approved the
10 termination?
11 A. Yes.
12 Q. Okay. In Ms. Santiago's case, do
13 you recall getting the approval and then
14 advising Mr. Finn of the approval?
15 A. That it was okay to move forward.
16 Q. Okay. And how did you advise Mr.
17 Finn of that?
18 A. I would have said it's okay to move
19 forward.
20 Q. Would you have done it by phone or
21 by email or text?
22 A. I probably just handed him his form
23 back.
24 Q. Okay. So you would have gone out
25 onto the floor, and do you recall doing so?

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1 phone with Mr. Lang?
2 A. I would have just read from the
3 actual warning.
4 Q. Okay. So you would have read from
5 the warning. Now when you get off the phone
6 do you note somewhere that he approved it
7 that day or time?
8 A. No.
9 Q. Do you have a policy or procedure
10 then by notifying the employee within 24
11 hours or how does that, what is the next step
12 after Mr. Lang approved the termination?
13 MR. ZIEPFEL: Objection.
14 THE WITNESS: When I can get to
15 it, I mean that's what -- I have to, when I
16 can get it in there. When I can call him,
17 usually I try to do it right away but there's
18 no timeline.
19 BY MS. GRUBB:
20 Q. Okay.
21 A. If that's what you're asking,
22 there's no timeline.
23 Q. Okay. He's given the approval to
24 terminate someone and then you said you don't
25 make any notation, he said it was okay. You

1 A. No, he would have came in there and
2 I would have given it -- he would have came
3 to the HR department and I would have given
4 him the form back.
5 Q. So you would have called him to
6 come from the shop?
7 A. I don't know if I called him, I
8 don't know how, I mean --
9 Q. Okay. So within a couple of,
10 within a day or so you would have done that
11 of the approval?
12 A. Yeah. If I, I don't know if I -- I
13 don't know the timeline. It would have been
14 on the forms.
15 Q. At that point, once you handed it
16 back to Mr. Finn are you then out of that
17 discussion and then you just send a letter to
18 the employee?
19 MR. ZIEPFEL: Objection.
20 THE WITNESS: Once I get the
21 form back.
22 BY MS. GRUBB:
23 Q. Back with her signature or his
24 signature?
25 A. I don't know if it was a signature.

Tab 2

In The Matter Of:
Rebeca Santiago v.
Meyer Tool, Inc.

GORDON McGUIRE
November 13, 2019

Around-The-Clock Reporting Services
Jean Long, RPR
P.O. Box 11008
Cincinnati, Ohio 45211
513.481.5200

Original File 191113gm.txt

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1 Q. And who reported to you?
2 A. Let's see, I had several people,
3 Jerry Blair -- I mean, excuse me, Jerry Ruff.
4 Edwin Finn, Jim Gloris, I guess those were
5 the -- and Mark Hempleman.
6 Q. All right. So as far as Mr. Finn,
7 when you left in 2018 what was his position?
8 A. When I left he was the night shift
9 supervisor.
10 Q. Okay. And then you said there was
11 Jerry Ruff, Ed Finn. Who else, I'm sorry?
12 A. Jerry Ruff, he was the day shift
13 supervisor.
14 Q. Okay. And you said you had two
15 other individuals reporting?
16 A. Yes, Jim Gloris, who was the tool
17 room supervisor. And then Mark Hempleman, he
18 was the machine manager or supervisor.
19 Q. And you are acquainted, of course,
20 with Mr. Rick Ackerson; does he report to
21 you?
22 A. Yes, I forgot about these guys.
23 Q. Okay.
24 A. Be gone for a year and I just kind
25 of forget.

Page 10

1 Q. All right. Well, and so
2 Mr. Ackerson also reported to you?
3 A. Yes.
4 Q. And what position was he?
5 A. He's our, I guess what they called
6 him at that time was, he was the supervisor
7 of the development and of hardware processes,
8 development and processes.
9 Q. Now was Mr. Rick Ackerson over Mr.
10 Finn in 2016?
11 MR. ZIEPFEL: Objection.
12 THE WITNESS: No.
13 BY MS. GRUBB:
14 Q. Okay. So they were equal?
15 A. Yes.
16 Q. All right. And this one, two,
17 three, four, five individuals all reported
18 directly to you. Did they have any dotted
19 line reporting relationships to anyone else;
20 by that I mean they may have reported to you
21 but they also reported to someone else?
22 A. They may have reported to other
23 people, depending, not necessarily reported
24 to them but worked with other people because
25 of the nature of their job.

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1 Q. Okay. Now as far as your, you said
2 you had day-to-day operations?
3 A. Yes.
4 Q. As far as the production itself, if
5 any of these, they are all gentlemen, had
6 issues or problems with production, then they
7 came to you?
8 A. Yes, ma'am.
9 Q. Okay. And then if any of them had
10 employee problems, they would come to you,
11 shift scheduling problems, anything of that
12 nature?
13 MR. ZIEPFEL: Objection.
14 THE WITNESS: Yes, ma'am.
15 BY MS. GRUBB:
16 Q. When it came to employee
17 evaluations, did you have to sign off on
18 those evaluations?
19 A. We started the process towards, I'm
20 trying to think a minute here, yes, I did.
21 Q. Okay. Now when an employee is
22 evaluated, let's say, for instance, I'm
23 trying to think of, give a good example,
24 Mr. Ackerson is responsible for Glenn Young,
25 okay, he would get the evaluation form from

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1 HR, am I correct?
2 A. Yes, ma'am.
3 Q. And then he would complete that
4 evaluation form and then before it's given to
5 the employee, would he have to send it to you
6 for review?
7 A. It would go, I would review all of
8 them and then they would go to HR.
9 Q. And did you kind of sign off or
10 check off that you approved what was --
11 MR. ZIEPFEL: Objection.
12 THE WITNESS: I would just
13 initial.
14 BY MS. GRUBB:
15 Q. Initial, okay. All right. Then
16 they were sent to HR. Did they have any say
17 into the amount that, for instance,
18 Mr. Ackerson wanted to give Mr. Young and
19 that you approved or were they simply for
20 entering into the computer systems?
21 MR. ZIEPFEL: Objection.
22 THE WITNESS: To the best of my
23 knowledge it was strictly for entering the
24 information into the computer system.
25 BY MS. GRUBB:

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1 Q. All right. So, for instance, a
2 worker in HR, such as Tina Lovelace, couldn't
3 suddenly decide to change a rate?
4 MR. ZIEPFEL: Objection.
5 THE WITNESS: No.
6 BY MS. GRUBB:
7 Q. Okay. And in the last, I know it's
8 been a while since you have been retired;
9 however, was there in the last decade a time
10 where there was a set raise amount given to
11 all individuals?
12 A. No set rate. There was a guideline
13 to go by, okay.
14 Q. Okay.
15 A. There was a rate given out as a
16 guideline.
17 Q. Mr. Ackerson recalls that in 2014,
18 I believe it was '14 through '16, that there
19 was a flat rate of 1.8 and then it was
20 changed later to 2.3?
21 MR. ZIEPFEL: Objection.
22 BY MS. GRUBB:
23 Q. Did those numbers seem at all
24 familiar to you?
25 A. Some of those numbers seemed right,

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1 yes. You know, when, when the evaluations
2 are given out, there's a guideline number,
3 whether it was 1.8 or 2.8 or 3.5 or whatever
4 the case may be, and that was with the
5 supervisor was supposed to work his
6 evaluation, you know, within those rates.
7 Then if somebody was more or better, then you
8 would work accordingly.
9 Q. Okay. So maybe we can go into some
10 more detail as far as how that worked. Who
11 set, some people call it a COLA, some people
12 call it cost of living adjustment, you
13 remember that from the form, who set that 1.8
14 or 2.3?
15 A. To the best of my knowledge, it
16 would have been the financial department of
17 Meyer Tool and the president of Meyer Tool.
18 Q. Okay. How did they communicate
19 that to you so when you're reviewing
20 evaluations somebody doesn't get a 5.25?
21 A. Well, they actually write it down
22 on the folder that's given out. Then when I
23 handed the folders to the individuals, you
24 know, it would be there, there would be a
25 print-out sheet in each one of the folders

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1 and they would have the evaluation forms of
2 all the employees for that particular
3 supervisor.
4 Q. Okay. So, for instance, let's use
5 Mr. Ackerson. That year, 2016, they may have
6 determined that 1.8 is going to be the cost
7 of living adjustment or the base rate --
8 A. Yes.
9 Q. -- adjustment, and he would be
10 given, you would give him a stack of folders?
11 A. Yes.
12 Q. With all his employees in them,
13 correct?
14 A. Yes.
15 Q. Okay. And then he was to evaluate
16 and then bring those folders back to you?
17 A. Yes.
18 Q. To review?
19 A. And we would review, yes.
20 Q. Now if someone wanted to go above
21 whatever the set rate of 1.8 or 2.3, then
22 they would have to make a special notation or
23 discussion as to why it should be, correct?
24 MR. ZIEPFEL: Objection.
25 THE WITNESS: Yes.

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1 BY MS. GRUBB:
2 Q. Then you would then, they would
3 have to say oh, this person gets a merit
4 increase because not only do they do their
5 work but they have taken on something
6 additional and that is worth another so many
7 cents, correct?
8 MR. ZIEPFEL: Objection.
9 THE WITNESS: Yes.
10 BY MS. GRUBB:
11 Q. And so then you would be the one
12 that would have to approve something over and
13 above the 1.8?
14 MR. ZIEPFEL: Objection, form.
15 THE WITNESS: I wouldn't approve
16 it. I would either agree with it because it
17 goes on to other people to approve, you know.
18 I can think okay, yes, this might be pretty
19 good, but I'm not the final say-so on the
20 raises or --
21 BY MS. GRUBB:
22 Q. Who would be the final say-so?
23 A. That would be the president and the
24 financial people at Meyer Tool.
25 Q. Okay. All right. So no one is

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1 getting crazy because the president would
2 have to see and understand a justification
3 for that very large merit increase?
4 MR. ZIEPFEL: Objection, form.
5 THE WITNESS: Yes.
6 BY MS. GRUBB:
7 Q. Okay. Now you said, let's talk
8 about that folder. There's the evaluation
9 form and then there are documents behind that
10 for each person that HR has stapled to the
11 form; for instance, it could be attendance,
12 it could be errors, it could be a
13 disciplinary writeup, things that went on in
14 that employee's history that year, correct?
15 A. That is correct, yes.
16 Q. And then all discipline and other
17 writeups for that particular evaluation
18 period, it would be the year preceding the
19 date of the evaluation, correct?
20 MR. ZIEPFEL: Objection. Form.
21 THE WITNESS: Preceding, yes.
22 It would be from the last time they got
23 evaluated to this current evaluation.
24 BY MS. GRUBB:
25 Q. Right. So, in other words, if you

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1 have an employee who is hired in 1998, you
2 didn't get an evaluation form with a stack
3 this big of every offense from 1998 to 2016?
4 A. No, no, no, no.
5 Q. Okay. And to your understanding,
6 does the discipline fall off the record if
7 it's older than a year?
8 A. It did at one time, yes, but I
9 don't know now.
10 Q. As we sit here today, because you
11 are retired, they may have changed the
12 policy?
13 A. Absolutely.
14 Q. But when you left it was just that
15 year?
16 A. Yes.
17 Q. Okay. Now as far as once the data
18 was inputted into the system was it your
19 understanding that the supervisor, such as
20 Rick Ackerson, was discussing the evaluation
21 then with the employee?
22 A. Yes.
23 Q. And was it your understanding that
24 they were having them sign those evaluations?
25 A. Yes, that was my -- yes.

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1 Q. All right. And then from that
2 point was there any further input that you
3 had on the evaluation after the supervisors
4 provided them to their employees?
5 A. No.
6 Q. Okay. At that point it's all
7 payroll and accounting to make any
8 adjustments?
9 A. Yes, ma'am.
10 Q. Okay. All right. Do you recall
11 any employee not being given that COLA or
12 that 1.8 percent out of Mr. Finn's
13 department?
14 MR. ZIEPFEL: Objection.
15 BY MS. GRUBB:
16 Q. In the last ten years?
17 A. I don't know which department, but
18 I know from time to time there were people
19 that did not get a cost of living raise or a
20 raise, period, no.
21 Q. Okay. Do you know what type, when
22 you said you recall, what situations did that
23 occur in?
24 A. Normally it was a borderline
25 employee that, you know, their work ethic was

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1 bad and stuff of that nature.
2 Q. And at that point if their
3 performance was such that didn't even warrant
4 a COLA increase, what did Meyer Tool do in
5 order to try to work with that employee or
6 rehabilitate that employee?
7 MR. ZIEPFEL: Objection.
8 THE WITNESS: From my standpoint
9 normally the employee knew it before it ever
10 come out, and the evaluation form would state
11 on there what he needed to do to improve
12 himself or herself or whatever because most
13 of the time the people know that, you know,
14 that they are probably not going to get a
15 very good raise because they probably have
16 been talked to and everything else trying to
17 give them the benefit of the doubt.
18 BY MS. GRUBB:
19 Q. Okay. Now do you make the referral
20 for what's called a PIP, a performance
21 improvement plan for the employees or does,
22 for instance, Mr. Ackerson, Mr. Ruff,
23 Mr. Finn, your first line supervisors do it?
24 A. Those guys would figure out what
25 they need to do to improve, yes.

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1 you testified you had no issues with him in
2 that period?
3 A. No, I've never had any issues with
4 Mr. Finn.
5 Q. And during that time what was his
6 role in the company?
7 A. Originally when I first took over,
8 he was day shift supervisor and then we made
9 him in the one area there and then he went to
10 night shift, he was over the whole second
11 shift then because we lost an individual on
12 second shift that normally did that, so we
13 put Huck in charge of that.
14 Q. Okay. Do you recall a reason why
15 he went to night shift?
16 A. We asked him to.
17 Q. Why did you ask him to?
18 A. We had an individual had a heart
19 attack and went ahead and retired and Huck
20 was the most qualified individual to go to
21 second shift because he had done machining
22 and the whole nine yards so that's when we
23 asked him to do it, so he took the challenge
24 and went to the second shift.
25 Q. You call it a challenge, why is

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1 that?
2 A. The second shift, you're kind of
3 out there all alone, you know, you don't have
4 the support people that people do during the
5 day, you don't have the HR department,
6 although they are a phone call away, he
7 always had my number if he needed me or he
8 could call a certain engineer.
9 On night shift you don't have
10 the support people you have on day shift, so
11 to me it's a challenge, and I forget how many
12 people he supervised, probably fifty, eighty,
13 about fifty, sixty people, so there were
14 other individuals in charge of certain areas,
15 but he was over all of them.
16 Q. Did other employees view the night
17 shift supervisor role as a challenge?
18 A. No, I can't answer that, you know,
19 truthfully --
20 Q. Fair enough.
21 A. -- myself personally I would prefer
22 not to be on second shift. Our second shift
23 was a pretty tough shift from 5:00, 4:00 to
24 the morning.
25 Q. Okay.

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1 A. Makes for a long day.
2 Q. Yes, it does. Can you do me a
3 favor and put in front of you Exhibit G,
4 which is the MT-21 policy.
5 A. Yes.
6 Q. Let me know when you have that.
7 A. I have got it.
8 Q. Okay. You mentioned that you were
9 a part of two investigations?
10 A. Yes, to the best of my knowledge it
11 was two, and there may have been a third one,
12 but I don't recall it, and I believe she had
13 two of them that my name was on, if I'm not
14 mistaken.
15 Q. And you recall, before your memory
16 was refreshed, you recall one complaint of
17 harassment?
18 A. The one was, yes -- no, they were
19 both harassments.
20 Q. Okay.
21 A. In my opinion. One was sexual --
22 well, they both could be considered sexual
23 harassment.
24 Q. Okay. And you weren't, you had no
25 firsthand knowledge of those complaints of

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1 sexual harassment when you were assigned to
2 that investigative committee, did you?
3 A. No, no, I wasn't aware of it until
4 I would get assigned to the committee and,
5 okay, what am I doing, and they brought us
6 all in a room and told us what was going on
7 and we would go from there.
8 Q. So everything you learned about the
9 allegations and any defenses would be through
10 reviewing documents that you didn't create,
11 and through discussing this with witnesses?
12 A. Correct.
13 Q. Okay. Was this policy in some
14 form -- you mentioned before there was always
15 some type of investigation process at Meyer
16 Tool. Did, was this formalized in the
17 handbook revisions that we went over earlier
18 today, in the 2013 handbook revisions, or was
19 there a similar policy, written policy prior
20 to those revisions?
21 A. No, I believe this was the original
22 policy.
23 Q. Okay. They put pen to paper in
24 2013?
25 A. Yes, they went through quite a few

Tab 3

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

REBECA SANTIAGO,
PLAINTIFF,

vs.

CASE NO. 1:19-cv-00032

MEYER TOOL, INC.,

DEFENDANT.

* * *

Deposition of REBECA SANTIAGO, Plaintiff
herein, called by the Defendant for
cross-examination pursuant to the Rules of Civil
Procedure, taken before me, Connie Sumner, RPR, a
Notary Public in and for the State of Ohio, at the
offices of Graydon Head & Ritchey, 312 Walnut
Street, Suite 1800, Cincinnati, Ohio on Tuesday,
November 12, 2019, at 9:15 o'clock a.m.

* * *

<p style="text-align: right;">Page 22</p> <p>1 (Telephone interruption.)</p> <p>2 A. Sorry. I'll put this on mute or turn it</p> <p>3 off. Sorry about that.</p> <p>4 Q. That's okay. Your letter is dated,</p> <p>5 Exhibit 1, which we looked at a moment ago, is dated</p> <p>6 July 27th. And you wrote a letter to Meyer Tool</p> <p>7 complaining about your termination on</p> <p>8 September 15th, so that's, you know, about six</p> <p>9 weeks. I'm just wondering why it took six weeks for</p> <p>10 you to write -- to send this letter to Meyer Tool?</p> <p>11 A. I believe I was in a position I was trying</p> <p>12 to find counsel about what to do next because I knew</p> <p>13 it was not the right -- it wasn't fair.</p> <p>14 Q. Okay. Did you talk to a lawyer before you</p> <p>15 wrote the September 15th letter?</p> <p>16 A. I believe so. Can I talk to her before</p> <p>17 you ask the next question?</p> <p>18 Q. Sure. You guys want to step out for a</p> <p>19 minute?</p> <p>20 (Off the record.)</p> <p>21 MS. GRUBB: Let's put this on the</p> <p>22 record what I've instructed Miss Santiago</p> <p>23 to do. You can inquire if she talked to an</p> <p>24 attorney. The only thing that she will not</p> <p>25 answer that we'll object to is any</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Regarding the reason for your termination.</p> <p>2 A. No, because I didn't come to -- this was</p> <p>3 the only things that I contact them with.</p> <p>4 Q. Okay.</p> <p>5 A. That I remember.</p> <p>6 Q. Okay. In looking at Exhibit 2, there's</p> <p>7 nothing in Exhibit 2 about any harassment, is there?</p> <p>8 A. No.</p> <p>9 Q. Okay. And there's nothing in Exhibit 2</p> <p>10 about gender discrimination, is there?</p> <p>11 A. Nope.</p> <p>12 Q. There is nothing in Exhibit 2 about you</p> <p>13 being paid less than male employees, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And when you say in Exhibit 2, you</p> <p>16 say I believe that Huck Finn terminated my position</p> <p>17 due to my use of FMLA leave due to my -- to a</p> <p>18 disability (my HIV condition) and his actions were</p> <p>19 discriminatory in that the reason he stated for my</p> <p>20 termination was due to four bad parts. You told me</p> <p>21 earlier, I think, that you believe that your FMLA</p> <p>22 use was the reason for your termination because of</p> <p>23 the reaction you would get from Huck Finn when you</p> <p>24 would call in sick: is that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 23</p> <p>1 discussions with a lawyer as that is</p> <p>2 privileged and she's not waiving the</p> <p>3 privilege.</p> <p>4 MR. GREINER: I understand.</p> <p>5 MS. GRUBB: So go ahead and answer.</p> <p>6 You simply cannot talk about whatever was</p> <p>7 talked about with any attorney or their</p> <p>8 staff, okay?</p> <p>9 THE WITNESS: Okay. Yeah, I believe</p> <p>10 that I contact Miss Grubb to get counseling</p> <p>11 about this because I knew something need to</p> <p>12 be done after me working there almost 20</p> <p>13 years just being fired like that, so I knew</p> <p>14 not to write or say anything else until I</p> <p>15 get counseling.</p> <p>16 BY MR. GREINER:</p> <p>17 Q. So you did -- you did talk to a lawyer</p> <p>18 before you wrote Exhibit 2?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Did you learn any new information</p> <p>21 about your situation between July 27th and</p> <p>22 September 15th?</p> <p>23 A. New information?</p> <p>24 Q. Yes.</p> <p>25 A. Regard?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. And he was just gruff about it usually?</p> <p>2 A. I don't know what that word means.</p> <p>3 Q. He wasn't friendly, right?</p> <p>4 A. Yes.</p> <p>5 Q. Is that -- is that how you describe those</p> <p>6 conversations?</p> <p>7 A. Yeah.</p> <p>8 Q. Okay.</p> <p>9 A. Inappropriate, unnecessary.</p> <p>10 Q. He seemed irritated, right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. When you would call in sick, as the</p> <p>13 supervisor that would mean that Huck would have to</p> <p>14 figure out a way to cover the shift, right?</p> <p>15 A. I don't know what he need to do.</p> <p>16 Q. Well, don't you think that stands to</p> <p>17 reason?</p> <p>18 A. I -- do you want me to assume, to guess?</p> <p>19 Q. I don't want you to assume anything.</p> <p>20 A. I don't know his work. I only know mine,</p> <p>21 so I don't know what he need to do next.</p> <p>22 Q. Okay. So if you weren't there for your</p> <p>23 shift --</p> <p>24 A. Okay.</p> <p>25 Q. -- somebody would have to cover for you,</p>

<p style="text-align: right;">Page 82</p> <p>1 And it lays out how the point system works. It 2 sounds like you didn't really focus much on, read 3 this? 4 A. Yes, this is the first time I see it to be 5 honest. 6 Q. You were not aware of it really until 7 today, right, okay. 8 (Thereupon, Exhibit No. 16, Meyer Tool, 9 Inc. Performance and Training policies, was 10 identified for purposes of the record.) 11 BY MR. GREINER: 12 Q. Okay. Take a look at Exhibit 16, please. 13 Exhibit 16 is another part of the handbook. In 14 Section 11:1, which is on 882, right in front of 15 you, indicates that poor job performance will lead 16 to discipline up to and including termination, you 17 see that, correct? 18 A. Yes. 19 Q. And you understood, I'm going to assume, 20 that as in any job a poor performer is subject to 21 being terminated, right? 22 A. Not right away, but I guess eventually. 23 Q. If the performance doesn't improve, right? 24 A. I guess. 25 Q. Okay. And you understand that the parts</p>	<p style="text-align: right;">Page 84</p> <p>1 MS. GRUBB: Objection. Go ahead. 2 THE WITNESS: I don't understand. 3 Can you rephrase that, please? 4 BY MR. GREINER: 5 Q. Yes. Let's just say you have an employee 6 who frequently winds up with deviated parts, would 7 you consider that poor performance? 8 MS. GRUBB: Objection. Go ahead. 9 THE WITNESS: Depending what you call 10 frequently. 11 BY MR. GREINER: 12 Q. Well, tell me, how often would it have to 13 happen before you could call that person a poor 14 performer? 15 A. I'm not the one to judge. I'm just saying 16 your question, it's not specific about what's the 17 amount of time that you're insinuating is poor 18 performance, that's not for me to be the judge. 19 Q. Okay. You can't answer that question? 20 A. No. 21 Q. How about if the deviation results from 22 the employee not paying attention to the operation 23 sheet, would you call that poor performance? 24 MS. GRUBB: Objection. Go ahead. 25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 83</p> <p>1 that you were working on that Meyer Tool 2 manufactured were used in some cases in jet engines, 3 right? 4 A. Yes. 5 Q. So if those parts didn't meet 6 specifications, you would agree there's a risk that 7 it could lead to a catastrophic failure, right? 8 MS. GRUBB: Objection. Go ahead. 9 THE WITNESS: I assume that, yeah. 10 It was important job. 11 BY MR. GREINER: 12 Q. And would you agree that deviating parts, 13 it would be fair to characterize that as poor job 14 performance? 15 A. No. 16 Q. No. Why not? 17 A. Because we all made mistakes in this 18 industry, that's why there's a procedure to tell, 19 write out papers after you deviate something to be 20 aware that don't go further as a damaged, but that 21 don't avoid you from making mistakes. 22 Q. Sure. But if -- if one employee has a -- 23 deviates a lot of parts and another employee only 24 deviates -- doesn't deviate many parts at all, would 25 you say the first employee is a poor performer?</p>	<p style="text-align: right;">Page 85</p> <p>1 (Thereupon, Exhibit No. 17, Meyer 2 Tool, Inc. Complaint Policies, was identified for 3 purposes of the record.) 4 BY MR. GREINER: 5 Q. Okay. Take a look at Exhibit 17, please. 6 Exhibit 17 is another portion of the Meyer Tool 7 Handbook, are you with me, and it says here 8 Complaint Procedure, do you see that? 9 A. Yes. 10 Q. And it says if an employee experiences an 11 incident or situation that could be considered 12 job-related harassment, the employee should 13 communicate to the offender specifically what is 14 offensive or that the behavior is disturbing or 15 state specifically what is bothersome. The employee 16 should then report these actions to their immediate 17 supervisor and/or the Human Resource Department 18 and/or a member of Senior Management. Do you see 19 that? 20 A. Yes, sir. 21 Q. You never followed this procedure -- 22 strike that. 23 You never made a complaint about any kind 24 of harassment to the Human Resource Department, 25 correct?</p>

<p style="text-align: right;">Page 86</p> <p>1 A. Right.</p> <p>2 Q. And you never made a complaint about any</p> <p>3 harassment to any member of Senior Management; is</p> <p>4 that correct?</p> <p>5 A. Right.</p> <p>6 Q. Did you -- okay. Strike that.</p> <p>7 (Thereupon, Exhibit No. 18,</p> <p>8 November 2, 1999 Employee Warning Report, was</p> <p>9 identified for purposes of the record.)</p> <p>10 BY MR. GREINER:</p> <p>11 Q. Let's take a look at Exhibit 18, please.</p> <p>12 Exhibit 18 is an Employee Warning Report from</p> <p>13 November 2nd of 1999. And you were given a warning</p> <p>14 for a failure to follow instruction, do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. And you signed this report, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you gave no comments on the report,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And it appears that, at least according to</p> <p>23 the warning report, that you had failed to follow</p> <p>24 instructions on the operation sheet; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yeah. He was not -- I don't think he was</p> <p>2 supervisor, he was lead man.</p> <p>3 Q. Okay.</p> <p>4 A. Because supervisor title, I think it was</p> <p>5 for Chuck -- I mean for Huck.</p> <p>6 Q. Got you. Okay. Is that the same as cell</p> <p>7 lead?</p> <p>8 A. I guess, yeah, it would mean the same.</p> <p>9 (Thereupon, Exhibit No. 19, April 29,</p> <p>10 2002 Employee Warning Report, was identified for</p> <p>11 purposes of the record.)</p> <p>12 BY MR. GREINER:</p> <p>13 Q. Okay. Take a look at Exhibit 19, please.</p> <p>14 Exhibit 19 is a verbal warning that was given to you</p> <p>15 April 29th, 2002 for substandard work or work</p> <p>16 quality. It's admittedly kind of hard to read, but</p> <p>17 can you take a look at what it says and can you tell</p> <p>18 me if that has any meaning to you?</p> <p>19 A. Apparently it's -- it does have specific</p> <p>20 dimensions of the result, according to the form 495</p> <p>21 thousandths and 505 thousandths dimension and he</p> <p>22 says it's under. It could be 494, nine, which is</p> <p>23 half of my hair under, so it can be from there to</p> <p>24 who knows what is the under that they're referring</p> <p>25 to.</p>
<p style="text-align: right;">Page 87</p> <p>1 A. That's what it says, yes.</p> <p>2 Q. Okay. And it was 1999, so I -- I assume</p> <p>3 you don't have any specific recollection of this,</p> <p>4 correct?</p> <p>5 A. Apparently not, but I would like to know</p> <p>6 what that's saying there, operation sheet what?</p> <p>7 Q. Page two, it looks like. I think it might</p> <p>8 be --</p> <p>9 A. See attached, anyway yeah, what's your</p> <p>10 next question?</p> <p>11 Q. Were you retrained after you got this</p> <p>12 notice?</p> <p>13 A. I would not know unless you showed me a</p> <p>14 paper I was.</p> <p>15 MS. GRUBB: You have to look at the</p> <p>16 entire exhibit when he's directing you to</p> <p>17 an exhibit.</p> <p>18 THE WITNESS: Okay. Sorry about</p> <p>19 that. So your question to me was? Sorry.</p> <p>20 BY MR. GREINER:</p> <p>21 Q. Do you recall whether you had retraining</p> <p>22 after this?</p> <p>23 A. No.</p> <p>24 Q. Okay. Your supervisor was Chuck Martin;</p> <p>25 is that correct?</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Okay. You did not sign this warning. I</p> <p>2 don't suppose you have any recollection of why you</p> <p>3 may not have signed it?</p> <p>4 A. No. Maybe I did not even see it. It was</p> <p>5 probably not bring it to me, who knows.</p> <p>6 Q. Okay. The specifications that you talked</p> <p>7 about, you know, those very precise specifications,</p> <p>8 are those provided by the client that Meyer Tool is</p> <p>9 working for, do you know?</p> <p>10 A. I don't know if it's by the client, but</p> <p>11 it's in the operations sheet.</p> <p>12 Q. Okay. Got you.</p> <p>13 A. I'm sorry when I mispronounce sheet.</p> <p>14 Q. Yes, that's okay.</p> <p>15 A. I'm not trying to be rude.</p> <p>16 Q. Yes, that's okay.</p> <p>17 (Thereupon, Exhibit No. 20, February</p> <p>18 24, 2011 Employee Warning Report, was identified for</p> <p>19 purposes of the record.)</p> <p>20 BY MR. GREINER:</p> <p>21 Q. Take a look at Exhibit 20, please.</p> <p>22 Exhibit 20 is another -- Exhibit 20 is an Employee</p> <p>23 Warning Report. It has to do with attendance. It</p> <p>24 was dated 2/24/2011. And according to this, on 2/21</p> <p>25 and 2/22, it says not coming to work, start to work</p>

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December 19, 2019

Magistrate Judge Karen L. Litkovitz.
Potter Stewart U.S. Courthouse, Room 716
100 East Fifth Street
Cincinnati, OH 45202

Re: Santiago v. Meyer Tool Incorporated, Case No. 1:19-cv-00032-SJD-KLL

Dear Magistrate Litkovitz:

Plaintiff respectfully submits this brief rebuttal to the position statement regarding deposition of Doug Lang submitted by Defendant, Meyer Tool Incorporated ("Meyer Tool"), on December 18, 2019. First, Mr. McGuire clearly testified that any employee folders given to him recommending raises over and above the set COLA rate would have to go to "the president and the financial people at Meyer Tool" for final approval. (*See Lang Trans.*, pp. 16-17, relevant portions of which are attached hereto and are incorporated herein as **Exhibit A**). Mr. McGuire agreed that "no one is getting crazy because the president would have to see and understand a justification for that very large merit increase[.]" (*See Id.*)

Meyer's argument that Mr. Lang has "no firsthand knowledge or involvement with Meyer Tool's decision to terminate an employee" is nonsensical, as it would equally be the case with Deanna Adams, Meyer's Human Resources Director. Ms. Adams would also get her facts and understanding of employee incidents "second hand" through first line supervisors and co-workers of the employee targeted for termination. Ms. Adams testified that she has no recollection of Plaintiff's supervisor, Huck Finn, consulting with her about Plaintiff in the six months prior to her termination. (*See Adams Trans.*, p. 72, relevant portions of which are attached hereto as **Exhibit B**). Nor could Ms. Adams recall being part of any conversations with Mr. Finn regarding Plaintiff. (*See Id.* at p. 74). In fact, she testified that she was not even involved in the termination process after Mr. Lang's approval or in the discussions with Plaintiff. (*See Id.* at p. 86).

Relative to Mr. Lang, Ms. Adams testified that she discussed the specific facts and circumstances underlying the approval for the termination of Plaintiff in a telephone call directly with Mr. Lang. (*See Id.* at p. 76). After receiving answers from Ms. Adams to all of his

questions, Mr. Lang then gave Ms. Adams his approval to terminate Plaintiff's employment. (See Id. at p. 77). Ms. Adams is Mr. Lang's direct report. (See Id. at p. 22).

Meyer completely ignores the deposition testimony of JoAnne Poff, who was the HR Coordinator for Meyer. She testified that all paperwork for termination of employees would be brought to a Vice President and to Mr. Lang for their review (See Poff Trans., pp. 72-73, relevant portions of which are attached hereto and are incorporated herein as Exhibit C).

In addition, this Court should be mindful of the broad permissible scope of pretrial fact discovery under Federal Rule 26(b), which states: "Parties may obtain discovery regarding **any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case**, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable." (Emphasis added).

Doug Lang clearly has knowledge and information that meets this liberal standard, as supported by the deposition testimony of Mr. McGuire, Ms. Adams and Ms. Poff. His deposition should be permitted and not limited in scope, in the same manner as the depositions of all other fact witnesses in this case.

Very Truly Yours,

GRUBB & ASSOCIATES, LPA

/s/ *Mark E. Owens*

Mark E. Owens, Esq.

cc: John C. Greiner, Esq.
Nicholas J. Ziepfel, Esq.

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In The Matter Of:
Rebeca Santiago v.
Meyer Tool, Inc.

GORDON McGUIRE
November 13, 2019

Around-The-Clock Reporting Services
Jean Long, RPR
P.O. Box 11008
Cincinnati, Ohio 45211
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EXHIBIT

tabbles

A

1 BY MS. GRUBB:

2 Q. Then you would then, they would
3 have to say oh, this person gets a merit
4 increase because not only do they do their
5 work but they have taken on something
6 additional and that is worth another so many
7 cents, correct?

8 MR. ZIEPFEL: Objection.

9 THE WITNESS: Yes.

10 BY MS. GRUBB:

11 Q. And so then you would be the one
12 that would have to approve something over and
13 above the 1.8?

14 MR. ZIEPFEL: Objection, form.

15 THE WITNESS: I wouldn't approve
16 it. I would either agree with it because it
17 goes on to other people to approve, you know.
18 I can think okay, yes, this might be pretty
19 good, but I'm not the final say-so on the
20 raises or --

21 BY MS. GRUBB:

22 Q. Who would be the final say-so?

23 A. That would be the president and the
24 financial people at Meyer Tool.

25 Q. Okay. All right. So no one is

1 getting crazy because the president would
2 have to see and understand a justification
3 for that very large merit increase?

4 MR. ZIEPFEL: Objection, form.

5 THE WITNESS: Yes.

6 BY MS. GRUBB:

7 Q. Okay. Now you said, let's talk
8 about that folder. There's the evaluation
9 form and then there are documents behind that
10 for each person that HR has stapled to the
11 form; for instance, it could be attendance,
12 it could be errors, it could be a
13 disciplinary writeup, things that went on in
14 that employee's history that year, correct?

15 A. That is correct, yes.

16 Q. And then all discipline and other
17 writeups for that particular evaluation
18 period, it would be the year preceding the
19 date of the evaluation, correct?

20 MR. ZIEPFEL: Objection. Form.

21 THE WITNESS: Preceding, yes.

22 It would be from the last time they got
23 evaluated to this current evaluation.

24 BY MS. GRUBB:

25 Q. Right. So, in other words, if you

In The Matter Of:
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DEANNA ADAMS
November 15, 2019

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513.481.5200

1 A. Christine Steele.

2 Q. All right, but then she was
3 starting to take longer and longer leave
4 until she eventually left the company in that
5 2017 year, and then who did you report to?

6 A. Doug Lang.

7 Q. Okay, that was directly to Doug,
8 and has that changed at all?

9 A. No.

10 Q. Okay. All right. So in 2017 you
11 would not have known whether or not Ms.
12 Santiago would have received any pay
13 adjustments whatsoever?

14 A. I would not.

15 Q. In 2016 would you have any
16 knowledge about whether or not she received
17 any pay adjustments?

18 A. No.

19 Q. So at this point we have to rely
20 upon the records in her file, am I correct?

21 A. Correct.

22 Q. Okay. And after assuming full time
23 all of the duties that Ms. Steele had, and I
24 understand there was a transition period,
25 have you now taken over the review of the

1 Q. No, with him regarding Rebeca?

2 A. No.

3 Q. Okay. And then obviously a
4 termination cannot be approved, as you said,
5 without certain policies and certain steps.
6 Had he in the past at all provided
7 documentation as far as verbal warnings
8 documented on a corrective action form,
9 writeups documented on a corrective action
10 form?

11 A. I don't know.

12 Q. You don't know?

13 A. I don't know, it would be in her
14 personnel file.

15 Q. Do you recall him ever consulting
16 with you about Ms. Santiago in the prior six
17 months to her termination, she was terminated
18 July 20, 2017?

19 MR. ZIEPFEL: Objection.

20 THE WITNESS: Not that I recall,
21 I don't know.

22 BY MS. GRUBB:

23 Q. Is there, if the supervisors have
24 questions about an employee's performance or
25 how to discipline them or how to work them,

1 BY MS. GRUBB:

2 Q. Okay. But you yourself personally
3 never overheard him talking about Ms.
4 Santiago with anybody in the HR department?

5 A. No, I never heard him talking about
6 anybody.

7 Q. And you weren't part of any
8 conversations with him regarding Ms. Santiago
9 for the six months prior to her termination?

10 MR. ZIEPFEL: Objection.

11 THE WITNESS: Not that I recall.

12 BY MS. GRUBB:

13 Q. Okay. All right. So at the point
14 that he came in with the form completed, am I
15 correct, the termination form completed?

16 A. Yes.

17 Q. All right. And it was a single
18 form?

19 A. I don't know.

20 Q. Okay. Did he hand it personally to
21 you?

22 A. No.

23 Q. Who did he hand it to?

24 A. I think it was slipped under my
25 door.

1 MR. ZIEPFEL: Objection.

2 THE WITNESS: I'm not sure who I
3 called first. I think it was Doug Lang.

4 BY MS. GRUBB:

5 Q. Okay. And what did you say to
6 Mr. Lang and what did he say to you on that
7 call?

8 A. I don't know, this is two years, it
9 was approved.

10 Q. Okay. He gave that approval?

11 A. Yes.

12 Q. Okay. Did you have to say anything
13 regarding the facts and the circumstances of
14 termination?

15 A. Yes.

16 Q. I'm trying to get the gist of that
17 conversation. And so he said yes. The day
18 that Huck gave it to you, did he approve it?

19 A. Who approve it?

20 Q. Okay. I was trying to abbreviate,
21 I shouldn't, I apologize, bad question. The
22 day that Mr. Finn gave you Mr. Santiago's
23 termination form, you said you talked by
24 telephone to Mr. Lang. Did Mr. Lang approve
25 that termination of Ms. Santiago the same day

1 that you gave him the form?

2 A. I don't know, I don't know if that
3 phone call happened then or later. I don't
4 know the timeframe there.

5 Q. Do you think it was within a day or
6 two?

7 A. I don't know.

8 Q. So when Mr. Lang verbally gives his
9 approval on something, is there some email or
10 documentation via text --

11 A. No.

12 Q. -- that he said it's okay?

13 A. No.

14 Q. All right. So you heard that, I
15 said I approve, did he tell you why he was
16 approving it?

17 A. He would have asked me what did the
18 supervisor say, why does the supervisor want
19 to terminate, is this, you know, is this what
20 he says on here, you know, I just explain
21 what he put on there, and he said yes, yes,
22 if the supervisor is good with it, I'm good
23 with it.

24 Q. And you believe you did that same
25 discussion regarding Ms. Santiago on the

1 correspondence may have gone out between
2 7/20/2017 and 7/27/2017, correct?

3 A. What do you mean correspondence?

4 Q. Would there have been any other
5 emails, correspondence, texts between
6 yourself and Ms. Santiago?

7 A. I don't know. I don't know. It's
8 possible, I don't know.

9 Q. Okay. Do you know whether or not
10 Ms. Santiago reported the day of 7/20/2017?

11 A. No, I do not.

12 Q. Okay. So in other words, as Mr.
13 Lang gives the approval and go ahead with
14 that, you do not become involved in the
15 termination process or the discussion with
16 the employee?

17 A. No.

18 Q. Okay.

19 A. Let me correct that. Sometimes I
20 am, sometimes I'm not.

21 Q. But with Ms. Santiago you were not?

22 A. I was not.

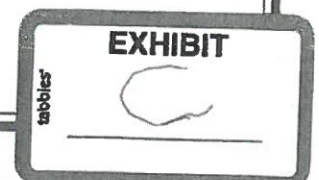
23 Q. And was there any reason that you
24 may become involved in the process?

25 A. If the supervisor requests.

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1 THE WITNESS: Yes.

2 BY MS. GRUBB:

3 Q. Okay. And you yourself never saw
4 one in writing from Ms. Santiago to the
5 company?

6 A. No.

7 Q. Okay. Now as far as Ms. Adams, do
8 you know whether or not she worked closely
9 with Mr. Finn to discipline his employees?

10 A. I couldn't answer that.

11 Q. If a termination of an employee
12 were to take place, who does it have to be
13 approved by?

14 A. All of management. So I would go
15 to the vice president and the president
16 before a termination could be done.

17 Q. Okay. Vice president and
18 president, so that was Beau Easton?

19 A. There's multiple vice presidents.

20 Q. Okay. And the president would be
21 Doug Lang?

22 A. Yes.

23 Q. So the paperwork would actually be
24 brought to them and reviewed?

25 MR. ZIEPFEL: Objection.

1 THE WITNESS: Yes.

2 BY MS. GRUBB:

3 Q. And you would not be involved with
4 that, that would be something that Ms. Adams
5 would take it?

6 MR. ZIEPFEL: Objection.

7 THE WITNESS: Correct.

8 BY MS. GRUBB:

9 Q. Do you recall ever being consulted
10 on Ms. Santiago's termination?

11 A. No.

12 Q. Do you recall anyone ever asking
13 your opinion?

14 A. No.

15 Q. Do you recall anyone in HR coming
16 to you, obtaining your, Ms. Santiago's FMLA
17 file or any other files that you may have
18 regarding Ms. Santiago?

19 A. No.

20 Q. You said those were reports that
21 Ms. Santiago could fill out. Did the
22 supervisor have access to see what was put on
23 that report?

24 MR. ZIEPFEL: Objection.

25 THE WITNESS: What do you mean?